



Focus on Aquatic Plant and Algae Management General Permit

from Ecology's Water Quality Program

Permit issuance

The Department of Ecology (Ecology) has issued a final five-year general permit to cover aquatic plant and algae management activities in the surface waters of the state. The Aquatic Plant and Algae Management General Permit is a joint National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit. The permit, issued on March 1, 2006, becomes effective on April 1, 2006.

Purpose of the general permit

The Aquatic Plant and Algae general permit covers the discharge of products used to control aquatic plants and algae in Washington lakes. These products include aquatic herbicides, algacides, biological clarification products, aquatic dyes, adjuvants, and nutrient inactivation products such as alum. This permit rescinds and replaces the Nuisance Plant and Algae Control NPDES General Permit (WAG-994000) and provides coverage for any in-lake treatment of state-listed noxious weeds or quarantine-list weeds. The permit also allows treatment of nuisance emergent plants along road sides and ditch banks.

Types of management covered by the permit

This permit allows three types of aquatic plant management activities.

1. Invasive, Non-Native Plant Eradication

Eradication is the complete removal of targeted plant species from an entire lake or pond. Ecology allows eradication for the following types of aquatic plants: state-listed noxious weeds, quarantine-listed weeds, and newly discovered non-native and potentially invasive plants.

2. Aquatic Plant and Algae Control

Aquatic plant control is the partial removal of aquatic plants within a water body or along a shoreline to protect the beneficial uses of a water body. Control also includes the removal of native vegetation along road sides or ditch banks. Ecology allows algae control for species such as cyanobacteria that affect human or environmental health and also the control of filamentous mat-forming algae.

3. Nutrient Inactivation

Nutrient inactivation allows the use certain chemicals to bind and remove the plant nutrient phosphorus from the water. Phosphorus limits the growth of algae in most lakes. This permit allows the use of alum and calcium hydroxide to inactivate phosphorus.



What changed between the draft and final permit

Based on comments received during the formal public comment period, Ecology made the following significant changes to the general permit:

- Changed the permit from a State Waste Discharge General Permit to a joint State Waste and NPDES general permit (RCW 90.48 and 40 CFR). In making this decision Ecology considered a number of factors:
 - Public comments requesting that the permit be issued under NPDES authority.
 - The Environmental Protection Agency delaying the development of a rule that could eliminate the need for an NPDES permit for pesticides applied according to the label.
 - Ecology's interpretation that the recent Ninth Circuit Court of Appeals *Fairhurst v. Hagener* decision did not overturn the *Talent Irrigation District* decision, which ruled that NPDES authority does apply to aquatic pesticides.
- Due to significant comment on the restriction allowing only 40 percent of the littoral zone (the vegetated area of a lake from the shoreline to the depth where plants can not grow) on individual water front lots to be treated, Ecology has:
 - Replaced the 40 percent restriction with a tiered strategy where the amount of littoral area allowed to be treated decreases as the size of the lake increases. The amount of littoral zone in a lake allowed for treatment is based on the total acreage of the lake.
 - Limited an individual homeowner's treatment area (when not treating as part of a lake-wide effort). If individual homeowners wish to treat in front of their house, they may treat up to 10 feet on both sides of their dock, or 20 feet total (in lieu of treatment around a dock). This is an "intended treatment area," allowing for some drift and unintended impacts to non-target plants.
- Set out separate conditions and treatment limitations for Lake Washington, Lake Union/Portage Bay, and Lake Sammamish in the "control" section of the final permit because this lake system has many local jurisdictions and significant salmon populations.
- Clarified language regarding permit application timelines. Ecology must receive applications at least 60 days prior to the start of aquatic plant and algae management activities. This 60-day time period will include a 30-day public comment period on the application itself, and a 14-day public comment period on the State Environmental Policy Act (SEPA) documentation submitted on the project.
- Provided more protection for threatened, sensitive, and endangered plants.

How to apply for coverage

Applicants seeking permit coverage should fill out the on-line application for coverage at this Web address: <http://www.ecy.wa.gov/programs/wq/pesticides/index.html> and follow the directions on the Web site to submit the application form to Ecology.

For more information

For information about the new general permit, please contact Kelly McLain at 360-407-6938 or by email at kelm461@ecy.wa.gov

If you need this information in an alternate format, please contact us at 360-407-6401. For persons with a speech or hearing impairment, call 711 for relay service or 800-833-6388 for TTY.